IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

::::

O R D E R

1. S.B. CIVIL WRIT PETITION NO.4073/2002
Hanuman Ram Vs. State of Rajasthan & Ors.
2. S.B. CIVIL WRIT PETITION NO.4072/2002
Kesha Ram Vs. State of Rajasthan & Ors.

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 18th September, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr. P.P. Choudhary, Advocate for the petitioner.
Mr. Rameshwar Dave, Dy. Govt. Advocate.

BY THE COURT

Since both these writ petitions raise similar questions of law and facts, both the writ petitions are being decided by a common order. However, for deciding the controversy, the facts of S.B. Civil Writ Petition No.4073/2002 are being taken into consideration.

The petitioner Hanuman Ram has filed this writ petition with the prayer that the order dated 18th July, 2002 passed by the District Education Officer, Primary Education, Jodhpur and the Circular of the Government dated 29th May, 2002 be quashed and set aside and the respondents be directed to issue appointment order of the petitioner on the post of Teacher Gr.III on compassionate ground recommended by Zila Parishad, vide its letter dated 27th April, 2002.

Back ground facts giving rise to the present petition are that father of the petitioner Shri Danvar Ram was serving as teacher in Government Primary School, Borunda, Panchayat Samiti, Bilara District Jodhpur. While in service he expired on 01st September, 2001. The petitioner being his son, applied for appointment on compassionate ground under the Rajasthan (Compassionate Appointment to the Dependents of the Deceased Government Servants) Rules, 1996 (for short 'the Rules of 1996') on the post of Teacher Gr.III. The petitioner has claimed that he has passed Secondary School Examination in the year 1997 with IInd Division and has passed Sr. Secondary School Examination again in IInd Division in the year 1999. He thereafter passed final year of B.A. from Maharishi Dayanand University, Ajmer in the year 2002. His name was considered by District Establishment Committee in its meeting held on 09th

April, 2002. The said Committee by its order dated 27th April, 2002 directed the Additional Chief Executive Officer to process the appointment of the petitioner and two others in accordance with the provisions of Rules of 1996 and to examine their eligibility, relevant documents and medical certificates and appoint them on the post of Teacher Gr.III for a period of two years on probation. Matter was forwarded to District Education Officer (Primary Education), Jodhpur who however returned the same to Zila Parishad vide letter dated 18th July, 2002 along with Circular of the Director, Elementary Education, Bikaner dated 29th May, 2002 for reconsideration of the matter in the light of the provisions contained in the said Circular. The Circular dated 29th May, 2002 was issued in modification of earlier Circular dated 08th November, 2001 on the subject of compassionate appointment of dependents of the government servants dying while in service. It was clarified that for appointment on the post of Teacher Gr.III, requisite training by the candidates was integral part of the educational qualification. Rule 9 of the Rules of 1996 would not apply to the same and therefore according to Rule 7 (1) of the said Rules a candidate who possess the minimum eligibility qualifications can claim appointment. Relaxation for training was provided only in the case of widows. But in the case of other dependents, such relaxation was not available.

The respondents have contested the writ petition by filing reply and produced the order dated 17th December, 2002 on record and have submitted that the petitioner has already been appointed on the post of Gram Sewak. According to them, the right of the petitioner to claim appointment on compassionate ground stands consummated and there was no such right now subsisting.

Reliance in this connection is placed on the judgment of this Court in Ishwar Prasad vs. State of Rajasthan, reported in 1997 (2) WLC 479, Ravindra Singh vs. State of Rajasthan, reported in 1997 (1) WLC 133 and Bhim Singh vs. State of Rajasthan, reported in 1998 WLC (UC) 613. According to the respondents since the petitioner was lacking in basic eligibility qualification and did not possess degree of BSTC/B.Ed., which was necessary for appointment on the post of Teacher Gr.III, no relaxation could be granted for making his appointment on compassionate ground.

In my considered view, when the petitioner has accepted the appointment on the post of Gram Sewak which too was made on compassionate ground, the petitioner now cannot claim any other appointment for the same consideration. The respondents had rightly refused him appointment on the post of

Teacher Gr.III because he did not possess the requisite eligibility qualification. No fault therefore can be found in the action taken by the respondents particularly when now the petitioner has already been appointed. His right to seek appointment on compassionate ground thus stood consummated.

S.B. Civil Writ Petition NO.4072/2002 (Keshu Ram vs. State of Rajasthan & Ors.) is also disposed of in the same terms as indicated above, because in that case too the petitioner was denied appointment on the post of Teacher Gr.III on account of having not possessed the qualification of BSTC/B.Ed. and he too was eventually given compassionate appointment on the post of Gram Sewak which he accepted without any murmur.

Both writ petitions are therefore dismissed with no order as to costs.

[MOHAMMAD RAFIQ],J.

Ashwini/-